

**IN THE UNITED STATES DISTRICT COURT
OF THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JEROME D. JOHNSON

PLAINTIFF

V.

CIVIL ACTION NO. 1:07cv539LG-JMR

DONALD A. CABANA, et al.

DEFENDANTS

STATE OF MISSISSIPPI

COUNTY OF HARRISON

**AFFIDAVIT OF WARDEN DONALD A. CABANA
HARRISON COUNTY SHERIFF'S OFFICE**

PERSONALLY CAME AND APPEARED BEFORE ME the undersigned authority in and for the County and State aforesaid, the within named, DONALD A. CABANA, who, after first being duly sworn by me on his oath, did depose and state the following:

1. My name is DONALD A. CABANA, and I am over the age of twenty-one (21) years. I am the Warden with the Harrison County Sheriff's Department and I am the Director of Corrections for the Harrison County Adult Detention Center and have held this position since August 18, 2006. I have personal knowledge of the matters and facts contained in this Affidavit and I am competent to testify to the matters stated herein.
2. At all relevant times alleged in Plaintiffs Complaint(s), including those arising at the HCADC, employees (including all defendants identified in this cause of action), provided grievance channels to inmates in accordance to the HCADC Policies and Procedures manual pertaining to Inmate Grievances.




See Inmate Grievances policy attached hereto as **Exhibit "1"**.

3. As Director of Corrections for the Harrison County Sheriff's Department, I was forwarded and reviewed Plaintiff's Second Step Inmate Relief Request Form dated February 26, 2007 and responded to same on March 6, 2007, informing Plaintiff that a criminal charge filed against an inmate at the HCADC is turned over to the Criminal Investigation Division (CID). I also stated in my response that Plaintiff should contact CID for further clarification. See Inmate Relief Request Form dated February 26, 2007 and Second Step Response Form dated March 6, 2007, collectively attached hereto as **Exhibit "2"**. This was the first notice of inquiry that I had received from Plaintiff regarding the status of his criminal investigation, and I answered Plaintiff's grievance to the best of my knowledge, and in accordance with the policies and procedures at the HCADC, including the Grievance Policy.
4. Due to the nature and size of the HCADC, departments have been created to handle specific functions, including CID. CID is responsible for investigation of all criminal matters, including those that arise at the HCADC involving inmates.
5. As it relates to Plaintiff's sexual assault charge, that matter was conducted through CID. I had no personal involvement in that investigation, nor did I have any knowledge of the status of the prosecution of this matter. As such, on March 6, 2007, I directed Plaintiff to CID since they were responsible for the investigation.
6. At the time, I believed that my actions were objectively responsible in light of

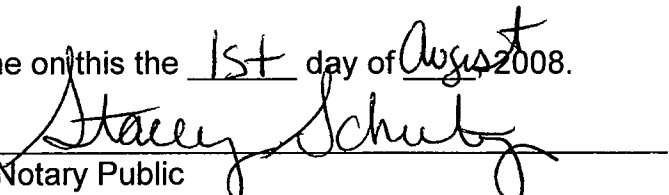
the information available to me at the time.

7. All policies attached hereto represent policies and procedures which were in place and effect at the time of the subject incident.

I certify the above declaration is true and correct under penalty of perjury.


Affiant/Donald A. Cabana
Harrison County, Mississippi

Sworn to and subscribed before me on this the 1st day of August 2008.


Notary Public

My Commission Expires:

1/28/09

(SEAL)

**Harrison County Adult Detention Center
Policy and Procedures Directives**

INMATE GRIEVANCE

Policy: It is the policy of the Harrison County Adult Detention Center to provide to the inmates housed in its facilities an internal grievance mechanism for the resolution of complaints arising from institutional matters. The intent is to reduce the need for litigation and afford the staff an opportunity to improve jail operations.

Procedure:

I. General Information

The Warden will designate a Corrections Officer to fulfill the duties of the Grievance Officer who will be responsible for coordinating investigations and responding to all grievances.

All employees who receive a grievance must respond in the manner prescribed by policy.

The grievance should state clearly the time, date, and names of all parties involved with all pertinent details of the incident or complaint.

Should a grievance make accusation of questionable acts or impropriety on the part of a Corrections Staff Member, the grievance will be forwarded to the Warden. A written response to the Inmate will be made within ten days of receipt of the grievance.

II. Filing

An inmate may file a grievance at any time to bring a problem to the attention of the staff or to appeal a specific action. An inmate may file only for him/herself, although an inmate may assist another inmate in filing. Only one grievance may be filled out at a time on any one single incident or item of concern. An inmate may withdraw a grievance at any time. No staff member will retaliate against an inmate for filing or withdrawing a grievance.

III. Basis for Grievances

A grievance may be filed for any one of the following reasons:

1. Lost property
2. Staff conduct
3. Conditions/confinement
4. Policy/procedures
5. Incidents
6. Reprisals
7. Mail

Only issues regarding activities within the facility can be addressed in the grievance procedure. Disciplinary actions have an appeal process and are not addressed in the grievance procedure. Issues relating to the courts,

EXHIBIT

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attorneys, and other issues over which the Harrison County Adult Detention Center has no control cannot be addressed in the grievance procedure. A grievance filed concerning any of these issues will be returned to the inmate with an explanation as to why it was returned.

IV. Review

If an inmate registers a complaint against a staff member, that employee shall not play a part in making a decision on the request. However, this shall not prevent the employee from being questioned or providing a narrative concerning the incident.

V. Grievance Classification

A grievance will be classified as either an informal, standard, or emergency grievance.

Informal Grievance – may be resolved by staff at any level without the complete processing of a formal grievance.

Standard Grievance – may be processed through normal channels because there is not an immediate threat to the welfare or safety of an inmate.

Emergency Grievance – must be processed expeditiously because there appears to be an immediate threat to the welfare of an inmate.

VI. Informal Grievance

An inmate may verbally submit a grievance to any Corrections Officer. When presented with an informal grievance, the Corrections Officer will advise the Watch Commander and may initiate corrective action, if the action is within the normal scope of the officer's duties. The Watch Commander will attempt to resolve the matter or have the inmate initiate a standard grievance at their discretion.

VII. Standard Grievance

An inmate may file a formal grievance within 30 days after a potential grievable event has occurred. The inmate must submit a detailed description of the occurrence in written form using the prescribed Grievance Form. All grievances will be forwarded to the Grievance officer by way of the request card. Newly initiated grievances sent to the Warden will be given to the Grievance Officer for Step 1 response. Once Step 1 response has been completed the Grievance Officer will return the response in written form to the inmate. If the inmate is not satisfied with the Step 1 response, he/she may send a request to the Grievance Officer for a Step 2 response from the Warden.

VIII. Emergency Grievance

Once an emergency grievance has been submitted, the officer will immediately contact the Grievance Officer, or in his/her absence, the Watch Commander. The Watch Commander and/or Grievance Officer will be responsible for determining whether the situation is in deed life threatening. In the event the situation appears to be life threatening the Watch

Commander will contact the Warden and corrective measures will be taken at that time.

IX. Grievance Officer

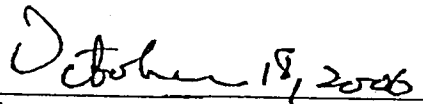
The Grievance Officer will process and investigate all grievances. The Grievance Officer will coordinate all steps of the process. A monthly report of grievances addressed will be submitted to the Warden.

X. Records

Once the grievance process has been completed a complete copy (hard and electronic) of all documents will be maintained by the Grievance Officer, and a copy placed in the inmate's record.



Warden



Effective Date

Harrison County Adult Detention Center

Inmate Grievance Form
(IGF-1)

Inmate Relief Request Form

Grievance Number _____

Type or use ball-point pen.

To: _____
First Step RespondentHCADC / HCWC
Location - Circle OneFrom: _____
Inmate's Name and Docket Number_____
Housing Unit_____
Date of Incident

☐ **Accepted** This request comes to you from the Grievance Officer. See the attached request from the inmate. Please return your response to this office within 10 days of this date.

☐ **Rejected** Your request has been rejected for the following reason(s):

Date_____
Grievance Officer**Second Step**

On _____ (date), I received a written response to my First Step request. I am not satisfied with this response because:

Therefore, I am commencing the Second Step by sending this form and the First Step response (IGF-2), to the Warden. This request must reach the Warden's office within 5 days of my receiving the First Step response.

Date

Harrison County Adult Detention Center

Inmate Grievance Form

(IGF-2)

First Step Response Form

Grievance Number _____ - _____ - _____

Type or use ball-point pen. You must return your response to the Grievance Officer within 10 days of the date the request was initiated.

To: _____
Inmate Name and Docket Number

Housing Unit

From: _____
Person to whom 1st Step is Directed

Title/Location

Date

Signature

If you are not satisfied with this response, you may go to Step 2 by filling out the second step section of Form IGF-1 and sending copies of Step 1 and Step 2 to the Warden. It must be received in the Warden's office within 5 days of the date of this response.

Instructions to respondent: Send original IGF-1 with IGF-2 to the Grievance Officer. **Note:** A copy of all documents referenced in the response must be attached and returned to the Grievance Officer.

Harrison County Adult Detention Center

Inmate Grievance Form

(IGF-3)

Second Step Response Form

Grievance Number _____ - _____ - _____

Type or use ball-point pen. You must return your response to the Grievance Officer within 10 days of the date the request was initiated.

To: _____
Inmate Name and Docket Number

Housing Unit

From: _____
WardenHCADC/HCWC
Location-Circle One_____
Date_____
Warden's Signature

This is the final step in the Inmate Grievance process.

Instructions to Warden: Send original and Step 2 copy to the Grievance Officer.

Instruction to Inmate: This original is for you to keep

Harrison County Adult Detention Center

APPROVED FEB 26 2007

Inmate Relief Request Form

Grievance Number 02 - 048 - 07

Type or use ball-point pen.

To: CAPT. ROGERS

First Step Respondent

HCADC / HCWC
Location - Circle OneFrom: Jerome Johnson 287256

Inmate's Name and Docket Number

B/A
Housing Unit2/21/07
Date of Incident☐ Accepted This request comes to you from the Grievance Officer. See the attached request from the inmate. Please return your response to this office within 10 days of this date.☐ Rejected Your request has been rejected for the following reason(s):NO DISPOSITION
PLEASE SEE ATTACHED REMARKS FROM
CAPTAIN ROGERS2/26/07
Date[Signature]
Grievance Officer

Second Step

On 26th of February 2007 (date), I received a written response to my First Step request. I am not satisfied with this response because:of the questions I inquiry about have not been properly answer.
If this matter has been taking seriously and carefully examine, I
would not be making a complaint about the injustice I absorbed from this
administration. Why would an individual of a criminal charge refuse
process of the law? Have the Inmate Disciplinary Rules and Procedures Change?

Therefore, I am commencing the Second Step by sending this form and the First Step response (IGF-2), to the Warden. This request must reach the Warden's office within 5 days of my receiving the First Step response.

RECEIVED

26th of February 2007Jerome Johnson

EXHIBIT

"2"

APPROVED MAR 12 2008 Harrison County Adult Detention Center

Second Step Response Form

Inmate Grievance Form
(IGF-3)

Grievance Number 02 - 048 - 07

Type or use ball-point pen. You must return your response to the Grievance Officer within 10 days of the date the request was initiated.

To: Jerome JOHNSON 287256
Inmate Name and Docket Number

B/A
Housing Unit

From: Donald A. Cabana
Warden

HCADC/HCWC
Location-Circle One

When a criminal charge is filed against an inmate it is turned over to the C.I.D. division. You will need to contact them for further clarification.

03-06-07

Date

Donald A. Cabana

Warden's Signature

This is the final step in the Inmate Grievance process.

Instructions to Warden: Send original and Step 2 copy to the Grievance Officer.

Instruction to Inmate: This original is for you to keep.

Inmate's Original